

Applicant: Kenneth W. Whitley
Application No.: 10/666,357
Filing Date: September 19, 2003
Docket No.: P-5655/1 (102-478)
Page 5

REMARKS

Reconsideration of the application is respectfully requested.

Claims 1-7, 9-16 and 18-20 are in the application. Through this amendment, claim 1 has been amended.

In the Official Action, the Examiner rejected claims 1-5, 7, 9-15 and 18-20 under 35 U.S.C. §103(a) as being allegedly unpatentable over Smith et al. (U.S. Patent No. 4,912,048) in view of Keilman et al. (U.S. Patent No. 4,717,668) and further in view of Serkes et al. (U.S. Patent No. 4,962,033). The Examiner admitted that Smith et al. "does not expressly disclose that the ribs are integrally formed with the wall" and relied on Keilman et al. for allegedly overcoming this deficiency. The Examiner also admitted that "Smith and Keilman do not indicate that the rib includes an outer wall extending radially outwardly from the pleats in such a way that the rib outer wall is flush with the outermost portions of the pleats." The Examiner asserted that Serkes et al. includes ribs 22, 24 which have "an outer wall extending outwardly from the pleats so that the rib outer wall is flush with the outermost portions (40) of the first apices of the pleats." The Examiner concluded that,

At the time of the invention, it would have been obvious to ensure that the integrally formed ribs proposed by Smith and Keilman are fashioned so that the rib outer wall extending radially outwardly from the pleats is flush with the outermost portions of the first apices of the pleats. As evidenced by Serkes, it is believed that this design is well known in the art, and allows for easy construction and handling. Absent a showing of criticality, it would have been evident to create ribs in Smith's apparatus in such a way that the outermost portion of the ribs are flush with the apices of the pleats.

Applicant: Kenneth W. Whitley
Application No.: 10/666,357
Filing Date: September 19, 2003
Docket No.: P-5655/1 (102-478)
Page 6

Smith et al. is directed to a fluted culture vessel. Several embodiments of the vessel are disclosed, including the embodiment shown in Figs. 3 and 4, which was relied upon by the Examiner in the Office Action. In this embodiment, the vessel includes a body portion 46 having a body wall 56 which defines V-shaped grooves or channels 58. In addition, upper and lower collars 66 and 68 may be provided which encircle the body wall 56. As stated at col. 4, ll. 14-19, "Collars 66, 68 can be constructed of any suitable material such as rubber, plastic, or any other elastic or pliable material. Although collars 66, 68 may be affixed to vessel 40, they are preferably removable from the vessel's surface so that they can be used or removed at the user's option." It is clear that the collars 66, 68 are not integrally formed with the vessel.

Keilman et al. is directed to a plastic roller bottle which includes a closed body 12 having a plurality of spaced reinforcement rings 26. As shown in Fig. 2, the rings are actually protruding portions of the body 12.

Serkes et al. is directed to a roller bottle 10 which includes a corrugated, pleated section 14. As shown in Fig. 2, flat, un-corrugated panels, such as the panels 22, 24 cited by the Examiner, are disclosed which interrupt the corrugations. The panels clearly do not extend across the corrugations. Rather, the corrugations stop with the panels separating such corrugations.

Applicant: Kenneth W. Whitley
Application No.: 10/666,357
Filing Date: September 19, 2003
Docket No.: P-5655/1 (102-478)
Page 7

Amended claim 1 is directed to a container for cell growth culturing which includes "a plurality of longitudinally axial extending pleats" with "each said pleat including a first side wall extending between a first end point and a first apex; and a second side wall extending between a second end point and said first apex, said first apex being located radially further from a longitudinal center of said container than said first and second end points"; and "at least one circumferential rib integrally formed with said cylindrical wall" wherein "said rib includes an outer wall extending radially outwardly from, and continuously between, said side walls of each of said pleats, said rib outer wall being flush with outermost portions of said first apices of said pleats such that said rib outer wall does not protrude radially outwardly from said first apices."

In contrast to claim 1, and as acknowledged by the Examiner, the collars 66, 68 of Smith et al. are wholly located radially outwardly of the body wall 56. There is no suggestion or motivation in Smith et al. to provide a circumferential rib which extends continuously between side walls of each of the pleats and does not protrude axially outwardly from the apices of the pleats. The subject invention, as set forth in amended claim 1, provides for a pleated wall which is not interrupted, but has a rib superimposed thereon for additional rigidity. As set forth in claim 3 of the subject application, at least one unpleated section may also be provided which defines a drain panel. With the subject invention, the circumferential rib is provided separately from any drain panel and provides additional rigidity to the container. Smith et al. discloses unpleated sections which may act as drain panels. (See, e.g., element 36 in Fig. 2 of Smith et

Applicant: Kenneth W. Whitley
Application No.: 10/666,357
Filing Date: September 19, 2003
Docket No.: P-5655/1 (102-478)
Page 8

al.). However, there is no disclosure or suggestion in Smith et al. to provide a rib continuously between the side walls of each of the pleats.

Serkes et al. discloses, *inter alia*, providing un-corrugated sections in between corrugated sections, like Smith et al. Thus, for example with reference to Fig. 2 of Serkes et al., Serkes et al. discloses the use of un-corrugated panels, such as the panels 22, between corrugated sections. Taking the proposed modification suggested by the Examiner of forming the collars 66, 68 integral with the Smith et al. container, there is no disclosure or suggestion to have any ribs extend continuously between the side walls of the corrugations or pleats. Rather, the resulting hypothetical combination would have pleated sections of a container separated by unpleated sections.

Moreover, Serkes et al. fails to disclose longitudinal pleats and fails to disclose circumferential ribs as set forth in amended claim 1. Keilman et al. does not overcome the deficiencies of Smith et al. and Serkes et al., since no corrugated structure is shown therein. It is respectfully submitted that claim 1, along with depending claims 2-5, 7, 9-15 and 18-20, are patentable over Smith et al., Keilman et al. and Serkes et al., each taken alone or in combination.

The Examiner rejected claim 6 under 35 U.S.C. §103(a) as being allegedly unpatentable over Smith et al. in view of Keilman et al., further in view of Serkes et al., and further in view of

Applicant: Kenneth W. Whitley
Application No.: 10/666,357
Filing Date: September 19, 2003
Docket No.: P-5655/1 (102-478)
Page 9

O'Connell (U.S. Patent No. 4,763,804). The Examiner admitted that the previous combination does not "expressly disclose that the neck portion includes a locking arrangement for holding a cap in a locked open position". The Examiner relied on O'Connell for allegedly overcoming this deficiency.

O'Connell is directed to a closure. There is no discussion or disclosure in O'Connell of pleated containers and, thus, O'Connell does not overcome the deficiencies noted above of Smith et al., Keilman et al., and Serkes et al. It is respectfully submitted that claim 6, as depending from claim 1, is also patentable.

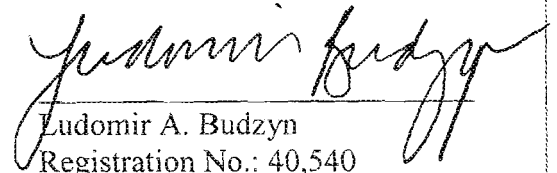
Claim 16 was rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Smith et al. in view of Keilman et al., further in view of Serkes et al., and further in view of Sugiura et al. (U.S. Patent No. 4,749,092). The Examiner relied on Sugiura et al. for allegedly disclosing an inwardly extending rib.

Claim 16 depends from claim 1. Sugiura et al. does not overcome the deficiencies noted above of Smith et al., Keilman et al., and Serkes et al. It is respectfully submitted that claim 16 is also patentable.

Applicant: Kenneth W. Whitley
Application No.: 10/666,357
Filing Date: September 19, 2003
Docket No.: P-5655/1 (102-478)
Page 10

Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicant's attorney at the number listed below.

Respectfully submitted,


Ludomir A. Budzyn
Registration No.: 40,540
Attorney for Applicant(s)

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700